

Zoning Variances

General

Where practical difficulties, unnecessary hardships and other impacts inconsistent with the development standards of the Zoning Ordinance may result from the strict application of certain Ordinance requirements, Variances to Zoning Ordinance requirements may be granted by the Planning Commission (refer to Santa Clara Municipal Code Section 18.108). No Variance may be granted for uses in any district.

In order to grant any Variance, the Planning Commission must make the following findings:
That there are unusual conditions applying to the land or building which do not apply generally in the same district.

That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

That the granting of such Variance shall not, under the circumstances of the particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property, and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

That the granting of the Variance is in keeping with the purpose and intent of this title.

Applications

Application shall be made to the Planning Division and shall be accompanied by twelve (12) copies of fully dimensioned site plans, floor plans and elevation drawings of proposed structures and one 8 ½" x 11" reduced copy of each of the drawings and must be accompanied by a statement of justification. Applications must have the property owner's signature prior to submittal. Detailed instructions and submittal requirements are provided on the application form. Such application shall be accompanied by a non-refundable fee as shown in the Planning Application Fee Schedule.

Zoning Variance Process

When an application is received in Planning, it is date-stamped, receipted and tentatively scheduled for the Project Clearance Committee (PCC) meeting. All inter-departmental concerns regarding the application including necessary design changes, recommended conditions of approval and environmental findings are discussed at the PCC meeting. The applicant and/or a representative is encouraged to attend. The Committee must determine if the application contains all necessary information in order to be deemed complete. When the Committee determines a Negative Declaration or Environmental Impact Report is required, the appropriate process must be completed prior to scheduling the item for a fully noticed public hearing. Copies of the PCC minutes are mailed to each owner and applicant within approximately five to ten days after Project Clearance Committee review.

Staff prepares a report for items on the Planning Commission agenda. At their meeting, the Planning Commission reviews staff recommendations, public testimony and the applicant's presentation. The Commission then acts to approve or deny the application based on specified findings.

Planning Commission Meeting Dates

The [Planning Commission](#) conducts public hearings generally once or twice a month on matters such as Variances. Planning Commission meeting dates are available at the Permit Center or can be found [online](#).

Public Noticing Requirements

At least ten days prior to the Planning Commission meeting, property owner's Notices of Hearing are mailed to all property owners within a three hundred foot radius of the application property. Ten days prior to the meeting, four notices are posted in at least three conspicuous places near or on the affected property. Concerned citizens may contact the Planning Division and submit written comments regarding an application. They may also address the Planning Commission at the public hearing regarding the proposal. If a concerned citizen later chooses to challenge a land use decision of the Planning Commission (or Council), he or she may be limited to raising only those issues raised at the public hearing or in written correspondence delivered to the Planning Division or Planning Commission at, or prior to the public hearing. The Commission either approves or denies the variance, based on the findings contained in Santa Clara [Municipal Code Section 18.108.040](#).

Findings and Appeals

The Commission's decision is final unless appealed. The owner/applicant or any concerned person may file an appeal of the Commission action with the City Clerk for hearing by the City Council. Any such appeal must be filed within 7 calendar days of the Commission action and must be accompanied by the appeal fee.

If construction of the improvements implementing the Variance action has not begun within two years after the approval date, an extension request must be filed (for up to a maximum of two years). If no extension is filed or if the Commission denies the extension, the Variance action becomes null and void.

Revocation

Any Variance approval granted shall be automatically revoked and terminated if not used within two years of the original grant, or within the period of any authorized extensions thereof.

The Planning Commission may at any time authorize extensions of time on any Variance, for a period not to exceed an additional twenty-four (24) months if:

The applicant has satisfied the Planning Commission that good cause exists for such an extension; and

The applicant has filed a request for an extension before the expiration of the particular approval sought to be extended.

The action of the Planning Commission shall be final except in the event of an appeal as provided in Santa Clara [Municipal Code Section 18.108.060](#).

Any Variance granted in accordance with the terms of this title may be revoked if basis for approval is found to be invalid, if any of the conditions of such Variance are violated, or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with

the concurrence of the City Council, that the continuance of the variance will endanger the public health, safety or welfare.

The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing and shall submit its recommendations to the City Council. The City Council shall act within forty-five (45) days after receipt of the recommendations of the Planning Commission.